

**Introduced by Senator Huff**

February 24, 2015

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An act to amend Section 44955 of the Education Code, relating to school employees.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 381, as introduced, Huff. School employees: reduction in workforce: deviation from order of seniority.

Under existing law, when school employees are terminated pursuant to a reduction in workforce, a school district is required to terminate the employees in order of seniority. Existing law authorizes a school district to deviate from the order of seniority for those purposes for specified reasons, including the school district demonstrating a specified need for personnel to teach a specific course or course of study and the certificated employee having special training and experience necessary to teach that course or course of study, which others with more seniority do not possess.

This bill would authorize that the course or course of study, that may allow a school district to deviate from terminating school employees in order of seniority, include career technical education and career pathway programs, and would further authorize that a school district may deviate from the order of seniority to comply with the school district's local control and accountability plan, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 44955 of the Education Code is amended to read:

44955. (a) ~~No~~A permanent employee shall *not* be deprived of his or her position for causes other than those specified in Sections 44907 and 44923, and Sections 44932 to 44947, inclusive, and ~~no~~ a probationary employee shall *not* be deprived of his or her position for cause other than as specified in Sections 44948 to 44949, inclusive.

(b) ~~Whenever~~ ~~(1) If in any~~ a school year the average daily attendance in all of the schools of a *school* district for the first six months ~~in which that school is in session shall have declined below the corresponding period of either of the previous two school years, whenever if the governing board of a school district determines that attendance in a the school district will decline in the following year as a result of the termination of an interdistrict tuition agreement as defined described in Section 46304, whenever if a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, or whenever if the amendment of state law requires the modification of curriculum, and when in the opinion of if the governing board of the school district determines it shall have become necessary by reason of any of these conditions to decrease the number of permanent employees in the school district, the governing board of the school district may terminate the services of not more than a corresponding percentage of the certificated employees of the school district, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of no a permanent employee may shall not be terminated under the provisions of this section while any a probationary employee, or any other employee with less seniority, is retained to render a service which said that the permanent employee is certificated and competent to render.~~

~~In~~  
(2) *In* computing a decline in average daily attendance for purposes of this ~~section~~ *subdivision* for a newly formed or reorganized school district, each school of the *school* district shall be deemed to have been a school of the newly formed or

1 reorganized *school* district for both of the two previous school  
2 years.

3 ~~As~~

4 (3) *As* between employees who first rendered paid service to  
5 the *school* district on the same date, the governing board *of the*  
6 *school district* shall determine the order of termination solely on  
7 the basis of needs of the *school* district and the ~~students thereof.~~  
8 *pupils of the school district*. Upon the request of ~~any~~ *an* employee  
9 whose order of termination is so determined, the governing board  
10 *of the school district* shall furnish in ~~writing~~ *writing*, no later than  
11 five days ~~prior to~~ *before* the commencement of the hearing held  
12 in accordance with Section 44949, a statement of the specific  
13 criteria used in determining the order of termination and the  
14 application of the criteria in ranking each employee relative to the  
15 other employees in the group. ~~This~~ *The* requirement that the  
16 governing board *of the school district* provide, on request, a written  
17 statement of reasons for determining the order of termination shall  
18 not be interpreted to give affected employees any legal right or  
19 interest that would not exist without ~~such a~~ *the* requirement.

20 (c) (1) Notice of ~~such the~~ termination of services shall be given  
21 ~~before the 15th of May in the manner prescribed in May 15~~  
22 *pursuant to* Section 44949, and ~~the~~ services of ~~such~~ *those*  
23 employees shall be terminated in the inverse of the order in which  
24 they were employed, as determined by the *governing board of the*  
25 *school district* in accordance with the provisions of Sections 44844  
26 and 44845. ~~In the event that~~ *If* a permanent or probationary  
27 employee is not given the notices and a right to a hearing as  
28 provided for in Section 44949, he or she shall be deemed  
29 reemployed for the ensuing school year.

30 ~~The~~

31 (2) *The* governing board *of the school district* shall make  
32 assignments and reassignments in ~~such~~ a manner that employees  
33 shall be retained to render any service ~~which~~ their seniority and  
34 qualifications entitle them to render. However, ~~prior to~~ *before*  
35 assigning or reassigning ~~any a~~ certificated employee to teach a  
36 subject ~~which that~~ he or she has not previously taught, and for  
37 which he or she does not have a teaching credential or ~~which that~~  
38 is not within the employee's major area of postsecondary study or  
39 the equivalent thereof, the governing board *of the school district*

1 shall require the employee to pass a subject matter competency  
2 test in the appropriate subject.

3 (d) Notwithstanding subdivision (b), a school district may  
4 deviate from terminating a certificated employee in order of  
5 seniority for either of the following reasons:

6 (1) The *school* district demonstrates a specific need for personnel  
7 to teach a specific course or course of study, *including, but not*  
8 *limited to, career technical education or career pathway programs,*  
9 or to provide services authorized by a services credential with a  
10 specialization in either pupil personnel services or health for a  
11 school nurse, and that the certificated employee has special training  
12 and experience necessary to teach that course or course of study  
13 or to provide those services, ~~which~~ *that* others with more seniority  
14 do not possess.

15 (2) For purposes of maintaining or achieving compliance with  
16 constitutional requirements related to equal protection of the laws.

17 (3) *For purposes of maintaining or achieving compliance with*  
18 *the school district's local control and accountability plan.*